

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA
Plaintiff,

v.

Case No. 09-CR-88

GREGORY CEGIELSKI
Defendant.

ORDER

On October 29, 2009, I denied defendant Gregory Cegielski's motion to dismiss the indictment, which charges a violation of 18 U.S.C. § 922(g)(9). On November 6, 2009, defendant entered a conditional guilty plea, reserving his right to appeal the denial of his motion. The case is set for sentencing on February 8, 2010.

Today, the Seventh Circuit released its decision in United States v. Skoien, reversing the defendant's conviction under § 922(g)(9) in light of District of Columbia v. Heller, 128 S. Ct. 2783 (2008), and remanding for application of "intermediate scrutiny" to the statute. The court held that the government bore the "burden of establishing a reasonable fit between its important interest in reducing domestic gun violence and the means chosen to advance that interest – § 922(g)(9)'s total disarmament of domestic-violence misdemeanants." Slip. op. at 27. Given the holding of Skoien, it appears that the interests of judicial economy would best be served by vacating the October 29 Order and permitting the parties to brief the issue under the standards set forth by the court of appeals.

THEREFORE, IT IS ORDERED that on or before **December 16, 2009**, the government file a brief addressing the motion in light of Skoien; that defendant file a response on or before

January 13, 2010; and that the government file a reply, if any, on or before **January 20, 2010**.

Dated at Milwaukee, Wisconsin, this 18th day of November, 2009.

/s Lynn Adelman

LYNN ADELMAN
District Judge